

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ADRIENNE LEA MILLER, as Administrator of the
Estate of KATHERINE LEA MILLER, deceased,

Plaintiff,

-against-

CHARLES A. TUCKER and FERRARO FOODS
TRANSPORT CORP.,

Defendants.
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**ORDER OF
COMPROMISE
PURSUANT TO
NEW YORK
EPTL §5-4.6**

Civil Docket No.:
1:20-cv-04908 (NRB)

David B. Golomb, Esq., a principal of Golomb & Longo, PLLC, attorneys for plaintiff, ADRIENNE LEA MILLER, as Administrator of the Estate of KATHERINE LEA MILLER, deceased, having filed an application to the United States District Court, Southern District of New York, for an order pursuant to New York's Estates, Powers and Trusts Law §5-4.6 approving settlement of the causes of action for decedent's conscious pain and suffering and for wrongful death in exchange for a total cash payment of NINE HUNDRED SEVENTY-FIVE THOUSAND DOLLARS (\$975,000.00), said sum to be paid by the defendants, CHARLES A. TUCKER and FERRARO FOODS TRANSPORT CORP., or their liability insurance carrier, within 21 days after defendants' counsel's receipt of a general release signed by plaintiff and a stipulation of dismissal, with prejudice and without costs and disbursements to any party, signed by plaintiff's counsel; authorizing plaintiff and her attorneys to execute such releases, stipulations and other papers as may be necessary to effectuate the settlement and compromise of this action and the collection, deposit and distribution of the settlement proceeds as directed herein;

approving reimbursement to plaintiff's attorneys of their disbursements and approving attorney's fees to Golomb & Longo, PLLC, as plaintiff's counsel in this matter; permitting Golomb & Longo, PLLC, to collect the proceeds of settlement and to deposit same into an interest-bearing escrow account for the benefit of decedent's estate pending the filing of a formal application to the Surrogate's Court, New York County, for a Final Decree approving allocation and distribution of the net proceeds of settlement; authorizing and permitting Golomb & Longo, PLLC, upon submission to this Court of the proof of filing of a Petition in the Surrogate's Court, New York County, for a Final Decree seeking allocation and distribution of the settlement proceeds remaining after payment of attorney's fees and disbursements to immediately release and pay to themselves from the gross settlement proceeds being held in the aforesaid escrow account, the full amount of their approved attorney's fees and disbursements; holding the remaining, net proceeds of the settlement proceeds in escrow until a Final Decree has been entered by the Surrogate's Court, New York County, approving the allocation and distribution of the net settlement funds; and, for such other and further relief as this Court may deem just and proper under the circumstances;

AND, the Court having obtained jurisdiction over all necessary and proper parties to this proceeding;

AND, it appearing further that plaintiff is willing to accept the settlement sum and defendants are willing to pay the same upon execution and delivery to their counsel of a general release and a stipulation of dismissal, with prejudice and without costs and disbursements to any party, as directed herein,

NOW, upon all the papers and proceedings heretofore had herein, the Declaration by plaintiff ADRIENNE LEA MILLER, as Administrator of the Estate of KATHERINE LEA MILLER, deceased, executed the 30th day of June, 2023, and the exhibits annexed thereto in support; the Declaration by David P. Miller, father of decedent, executed the 30th day of June, 2023; and the Declaration by David B. Golomb, Esq., of Golomb & Longo PLLC, executed the 5th day of July, 2023; it is hereby

ORDERED, that the restrictions contained in the Letters of Administration issued by the Surrogate's Court, New York County dated the 26th day of February, 2020 to Adrienne Lea Miller, as Administrator, are hereby modified only to the extent required to allow the compromise and settlement of the within matter for the total sum of NINE HUNDRED SEVENTY-FIVE THOUSAND (\$975,000.000) DOLLARS, and to allow for the collection and deposit of said funds as set forth herein; and, it is further

ORDERED, ADRIENNE LEA MILLER, as Administrator herein, is hereby authorized and empowered to settle and compromise the causes of action for decedent's wrongful death and conscious pain and suffering for a total cash payment of NINE HUNDRED SEVENTY-FIVE THOUSAND DOLLARS (\$975,000.00), said amount to be paid by the defendants, CHARLES A. TUCKER and FERRARA FOODS TRANSPORT CORP., or their liability insurance carrier; and it is further

ORDERED, that defendants or their liability insurance carrier shall pay all settlement proceeds by delivering to Golomb & Longo, PLLC, within 21 days as required by CPLR §5003-a, upon tender by Golomb & Longo, PLLC of a general release executed by plaintiff, a signed stipulation discontinuing action with prejudice and without costs and disbursements and a copy of this Court's entered order, a check or draft made payable

to “Adrienne Miller, as Administrator and Golomb & Longo, PLLC, as attorneys” in the amount of \$975,000.00, said sum to be held in an interest-bearing escrow account subject to compliance with further provisions of this order; and, it is further

ORDERED, that plaintiff, ADRIENNE LEA MILLER, and her attorneys, Golomb & Longo, PLLC, are hereby authorized and permitted to execute and deliver any and all releases along with any other documents necessary to effectuate the settlement of this action and to collect the proceeds thereof, and to dismiss, with prejudice and without costs and disbursements to any party, the causes of action for conscious pain and suffering and wrongful death as directed herein; and, it is further

ORDERED, that reimbursement to Golomb & Longo, PLLC, as plaintiff’s attorneys, for the costs and disbursements incurred in the investigation and prosecution of this matter is hereby fixed, authorized and allowed in the amount of THIRTY-FIVE THOUSAND EIGHT HUNDRED FIFTEEN (\$35,815.18) DOLLARS and EIGHTEEN CENTS; and, it is further

ORDERED, that attorney’s fees to Golomb & Longo, PLLC are hereby approved in the total amount of THREE HUNDRED TWENTY-FIVE THOUSAND (\$325,000.00) DOLLARS, for the legal services rendered herein, in accordance with the retainer agreement executed by plaintiff; and it is further

ORDERED, that Golomb & Longo, PLLC is hereby authorized and empowered to collect the proceeds of settlement and to deposit said proceeds into an interest-bearing escrow account for the benefit of decedent’s estate pending entry of a Final Decree by the Surrogate’s Court, New York County approving the allocation and distribution of the net settlement proceeds; and, it is further

ORDERED, that upon submission to this Court by Golomb & Longo, PLLC of proof of filing of a Petition in the Surrogate's Court, New York County, for approval of the allocation and distribution of the net settlement proceeds Golomb & Longo, PLLC is authorized and permitted to release and pay to themselves out of the settlement proceeds being held in escrow the full amount of the attorney's fees and disbursements approved herein; and, it is further

ORDERED, that Golomb & Longo PLLC, shall continue to serve as attorneys for the Estate of Katherine Lea Miller until a Final Decree has been entered in Surrogate's Court, New York County approving allocation and distribution of the net settlement funds; and, it is further

ORDERED, that the giving or posting of a bond or other security in connection herewith be dispensed with.


Hon. NAOMI REICE BUCHWALD
U.S.D.J.

Dated: August 2, 2023
New York, NY